

REMARKS

By this amendment, claims 1, 3 and 6-8 have been amended, and claims 4 and 5 have been cancelled without prejudice or disclaimer. The title of the invention and the abstract of the disclosure have also been amended. Support for the instant amendment may be found in the embodiments disclosed throughout the as-filed specification. No new subject matter has been added. Accordingly, claims 1-3 and 6-8 are pending in the present application, of which claim 1 is independent

Reconsideration and allowance of the present application based on the following remarks are respectfully requested.

Objection to the Specification

A. The title of the invention was objection to for allegedly being non-descriptive. Applicant disagrees with the propriety of the objection. However, solely in an effort to expedite prosecution, Applicant has amended the title of this invention.

Accordingly, withdrawal of the objection to the title of the invention is earnestly sought.

B. The abstract of the disclosure was objected to because it lacked parenthesis around the reference numerals. Applicant disagrees with the propriety of this objection. However, solely in an effort to expedite prosecution, Applicant has amended the abstract of the disclosure to remove the reference numerals therein.

Accordingly, withdrawal of the objection to the abstract of the invention is earnestly sought.

Objection to the Claims

Claims 6-8 were objected to under 36 C.F.R § 1.75(c) as allegedly being in improper form because of multiple dependency. Applicant disagrees with the propriety of this objection. However, solely in an effort to expedite prosecution, Applicant has amended claims 6-8 to depend from claims 1 or 2 only.

Accordingly, withdrawal of the objection to the claims is earnestly sought.

Rejections under 35 U.S.C. § 103

A. Claims 1-3 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2004/0004190 to Nishi et al. (“Nishi”) in view of Japanese Patent Application Publication No. 2003-345271 to Teruo et al. (“Teruo”). Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nishi in view of Teruo and in further view of U.S. Patent Application Publication No. 2002/00047567 to Fujita et al. (“Fujita”). Applicant traverses these rejections for at least the following reasons.

Applicant submits that Nishi fails to disclose or render obvious a display device comprising, *inter alia*, first pixel electrode formed on said substrate, said first pixel electrodes including light shielding portions, said first pixel electrodes being disposed in a first direction; second pixel electrodes formed on said substrate, said second pixel electrodes including optically transparent portions, said second pixel electrodes being disposed in a second direction to cross said first pixel electrodes; common electrodes provided with optically transparent portions corresponding to said first pixel electrodes and light shielding portions corresponding to said second pixel electrodes; first optical layers disposed between said first pixel electrodes and said common electrodes to change an optical property in response to electric energy applied between said first pixel electrodes and said common electrodes; and second optical layers disposed between said second pixel electrodes and said common electrodes to change an optical property in response to electric energy applied between said second pixel electrodes and said common electrodes; as recited in independent claim 1.

The Office Action alleges that reference numerals 43 and 46 in Figure 2 of Nishi are the claimed first and second pixel electrodes, respectively. [See Office Action, pg. 3]. Applicant respectfully disagrees. With regards to these features, Nishi teaches that reference numeral 43 denotes a pixel electrode (corresponding to a cathode of the EL device) and that reference numeral 46 denotes the anode [See Nishi, ¶¶ 73 and 82]. As such, these two elements (43, 46) of Nishi comprise only one pixel electrode. [See, e.g., Nishi, ¶ 24]. By contrast, Applicant’s claimed invention requires both a first pixel electrode and a second pixel electrode.

Further, the Office Action concedes that:

Nishi et al. is silent regarding common electrodes provided with optically transparent portions corresponding to said first pixel

electrodes and light shielding portions corresponding to said second pixel electrodes; first optical layers disposed between said first pixel electrodes and said common electrodes to change an optical property in response to electric energy applied between said first pixel electrodes and said common electrodes; and second optical layers disposed between said second pixel electrodes and said common electrodes to change an optical property in response to electric energy applied between said second pixel electrodes and said common electrodes.

[Office Action, pg. 3].

Applicant submits that the cited portions of Teruo do not overcome the shortcomings of the cited portions of Nishi. This is because Teruo clearly is not prior art that may be applied against the claimed invention. In fact, Teruo published on December 3, 2003 subsequent to both International (PCT) Application No. PCT/JP2003/010850 filed August 27, 2003 and Japanese Patent Application No. JP 2002-248942 filed August 28, 2002, which the present application claims priority to and is entitled the benefit of the filing dates thereof. [See 35 U.S.C. § 356(a)-(b); MPEP § 201.13(b)]. Indeed, the Examiner acknowledged Applicant's claimed for foreign priority and that certified copies thereof have been received on the PTOL-326 Form accompanying the Office Action mailed November 14, 2007.

For at least the foregoing reasons, the rejections based on Teruo should be withdrawn and the claims be allowed.

It is also noted that the Office Action makes references to various paragraphs of the disclosure of Teruo, which published in Japanese. Applicant submits that if the Examiner continues to rely on the disclosure of Teruo (which Applicant submits would be improper because Teruo is not prior art), that the Examiner must provide an English translation thereof. [See MPEP 706.02 II ("If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection.")].

Therefore, Applicant respectfully submits that a *prima facie* case of obviousness has not been made and that the cited portions of Nishi, Tureo, or any proper combination thereof, fail to disclose or render obvious each and every claim element of claim 1. Claims 2 and 3 and 6-7 depend from claim 1 and are, therefore, patentable for at least the same reasons provided above

related to claim 1, and for the additional features recited therein. Accordingly, Applicant respectfully requests that the rejections of claims 1-3 under 35 U.S.C. § 103(a) over Nishi in view of Teruo be should be withdrawn and the claims be allowed.

Claims 4 and 5 have been cancelled, and their subject matter has been incorporated into independent claim 1. Thus, the rejection thereof is now moot. Further, Applicant submits that the cited portions of Fujita do not overcome the shortcomings of the cited portions of Nishi. For example, like Nishi, Fujita appears to only teach a single pixel electrode 5. [See, e.g., Fujita, ¶ 75].

Conclusion

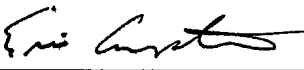
All matters having been addressed and in view of the foregoing, Applicant respectfully requests the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's representative remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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